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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,177	04/29/2005	Rostyslav Ilyushenko	2733.29US01	7171

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EXAMINER

ABOAGYE, MICHAEL

ART UNIT	PAPER NUMBER
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1725

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/533,177	Applicant(s) ILYUSHENKO ET AL.	
	Examiner Michael Aboagye	Art Unit 1725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1- 4, 6-16 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Forrest et al. (US Patent No.6,398,883).

Regarding claims 1, 3, 6, 7, 9 and 10, Forrest et al. discloses a method of welding together two metal work-pieces, the method including the following steps: providing two metal work-pieces machined from a block of an aluminum alloy to correspond to pre-selected shape and thickness (Forrest et al., column 3, lines 14-20 and lines 40-47,); preparing a portion of each work-piece, the preparation including friction stir welding process extending only part way into the work-piece from the exterior of (see, partial-penetration mixed regions designated "16" in the figures 1-2D, column 7, lines 15-17)resulting in grain structure refinement of the region extending from the exterior surface into the work-piece to a depth of about 6.5 mm (at least 10mm) and having grain structure finer than the grain structure of the work-piece outside that region (Forrest et al., column 3, lines 15-26, and abstract). After the preparing step, securing the two metal work-pieces together by fastening or welding (Forrest et al., column 5, lines 41-47, figure 16); wherein said region extends into the work-piece to a

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depth that exceeds the depth of material that is caused to melt during the fusion welding process; wherein the welded component is used as an air craft component (Forrest et al., column 5, lines 45-47). Forest et al. discloses also in figure 1, two structural members designated "11" having planar geometrical configuration and substantially flat surfaces.

Regarding claim 2, it is noted that the method as disclosed by Forrest et al. includes a friction stir device with a probe or pin which travel through the structural work piece at a speed of about 127 mm – 720 mm per minute (5- 30 inches per minute) depending on the thickness of the work pieces, said probe is capable of joining two structural work-pieces having joint depth greater than 50 mm (Forrest et al., abstract, figures 1, 2(A-D), 3(A-B), 16; column 1, line 10 – column 3, line 56 and column 5 line 30 – column 8, line5 –15).

Regarding claim 7, Forrest et al. teaches work-pieces composed of wrought metal which are cold worked (Forrest et al., column 3, lines 14-15).

Regarding claim 8 and 11-16, Forrest et al. teaches work-pieces machined from a block of metal and when welded together form at least part of a structural member suitable for manufacturing an aircraft component, wherein the aircraft component (Forrest et al., abstract, column 3, lines 45-47, column 11, lines 9-15; figures 1 and 16).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Forrest et al. (US Patent No. 6,398,883) in view of Bronson et al. (US Patent No. 5,720,824).

Forrest et al. does not expressly teach fusion welding process performed by means of electron beam welding process.

However Bronson et al. teaches a method of welding a first member and a second member to form an aircraft component; wherein welding process is that of electron beam welding process; wherein said electron beam welding process is adapted due to it's easy penetration, narrow width of heat affected zone and consequent reduction in the propensity to distortion or deformation of the welded work-pieces (Bronson et al., column 1, lines 20-36).

It would have been obvious to one of ordinary skill in the art at the time the applicants' invention was made to have used an electron beam welding as the form of fusion bonding process in the method of Forrest et al., for joining the work-pieces together as taught by Bronson et al., in order to achieve easy penetration but creating narrow width of heat affected zone which reduces the propensity to distortion or deformation of the welded workpieces (Bronson et al., column 1, lines 20-36).

Response to Arguments

5. The examiner acknowledges the applicants' amendment received by USPTO on December 26, 2006. Claims 1-16 and 22 remain under consideration in the application.

6. Applicant's arguments filed December 26, 2006 have been fully considered but they are not persuasive. Regarding the applicant's argument that Forrest et al. conducts friction stir welding to refine the work-piece after welding. It is noted that Forrest et al. disclosed an alternative embodiment which conducts stirring or mixing to refine the grain structure of the workpiece before securing them together by fastening or welding to form an aircraft component (Forrest et al., abstract, figure 16 and column 5, lines 40-48). Note also that the work-pieces designated by "11" in figure 1 are individually partially stir or mixed before securing together by either welding or fastening (Forrest et al., column 6, lines 29-57).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kennedy et al. (US 4,830,265) and Catteau et al. (US 6,777,106) are also cited in PTO-892.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Aboagye whose telephone number is 571-272-8165. The examiner can normally be reached on Mon - Fri 8:30am - 5pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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JONATHAN JOHNSON
PRIMARY EXAMINER


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Art unit 1725
01/25/2007